

Prepared Remarks of U.S. Attorney Preet Bharara
Portrait of Wally Ceremony
July 29, 2010

Good morning. My name is Preet Bharara, and I am the United States Attorney for the Southern District of New York.

More than 70 years ago *Portrait of Wally* was stolen by the Nazis from Lea Bondi Jaray who spent the rest of her life trying to recover her painting. Today we are here to celebrate the successful resolution of the forfeiture case that compensates her family for *Portrait of Wally* and moreover, recognizes that Lea was and always has been its rightful owner. After 70 years, justice has – at long last – been done.

In a few minutes, you will all have the opportunity to see *Wally*, the painting at the center of this case that has been under seizure for more than 12 years.

But before that, we should take a few moments to honor the memory of the woman who rightfully owned *Wally*.

It is important to remember and recognize today that this pitched legal battle was about more than just a precious painting. It was about a bedrock principle.

Unlawfully taking property from someone is a crime. It is theft. And no amount of attempted laundering of stolen property can change that fact. And no government or museum or individual, no matter how wealthy, is above the law and beyond legal process. And decades may go by but justice can still be done.

Apart from the vindication of this legal principle, there is perhaps a moral principle at work here also – that we cannot countenance the whitewashing of history.

Especially as we sit here – in this museum, which stands as an altar to remembrance – we must remember how it is that we came to this point.

What happened to Lea Bondi was a crime, plain and simple, and an especially depraved one because it occurred for no other reason than that she was a Jew.

And, sadly, to be Austrian and Jewish in Vienna in 1938 was to be especially vulnerable.

The Nazis – alongside the commission of unspeakable atrocities – also engaged in the base and venal taking of property. It was another way to victimize the Jewish people, to strip them not only of their rightful belongings, but also an attempt to strip them of their identity and even their humanity.

In 1939, as Lea and her husband were preparing to escape to England, a Nazi official, Friedrich Welz, came to their home, spotted Wally, and demanded it. In that time and in that atmosphere – on the eve of escape from Austria – Lea was powerless to resist, and her painting was stolen.

Years later, as the painting passed from Nazi hands to the US military to a gallery in Vienna, Lea tried to retrieve what was rightfully hers.

In fact, she spent the rest of her life trying to recover her painting. Although Lea died in 1969 without having recovered *Wally*, her efforts were not in vain. She wrote letters to her attorneys and colleagues describing Welz's theft and her conversations with Dr. Leopold. Nearly half a century later, these letters became critical evidence, when the case was finally litigated here in New York.

In 1997, the Leopold Museum loaned part of its Schiele collection, including *Wally*, to Museum of Modern Art. *Wally* was shipped to New York later that year. In January 1998, the Manhattan DA's Office issued a subpoena for *Wally* stopping its exportation. Litigation over the subpoena followed, and in 1999, the New York Court of Appeals quashed the subpoena.

Within hours of the court's decision, the Asset Forfeiture Unit of my office obtained a federal seizure warrant for *Wally*, the Customs Service seized *Wally*, and the next day we filed a civil action to forfeit *Wally*. A long and complicated litigation ensued.

Finally, after a difficult legal struggle, the District Court overseeing the case concluded that Welz had stolen *Wally*, and that Lea had never lost ownership of *Wally*. Thus, 70 years after Welz's crime, a court of law recognized *Wally*'s true provenance, and acknowledged the injustice that had been done to Lea Bondi Jaray.

This really was a watershed case. And its legacy extends far beyond the individual justice that was finally done in this

singular litigation. The attention generated by the seizure of *Portrait of Wally* turned the world's attention to the problem of Nazi looted art. It caused governments, museums, collectors and families of Holocaust victims to focus their attention on this issue. As a result:

- Several European governments created brand new restitution commissions to re-examine claims by victims' families that had been or could have been brought after the War to recover looted artworks.
- Countries, such as Austria and the Netherlands, reexamined their post World War II conduct in dealing with Holocaust property and enacted new laws that allowed claimants to renew their claims even if they were unsuccessful after the war.
- Several countries (including Austria) opened their archives to the public for the first time to allow families of Holocaust victims to research what became of their property.
- Museums all over the world, as well as governments with huge art collections of their own, started placing on the Internet images and information about artworks in their collections for which there was a gap in ownership history, or provenance, between the years 1933 to 1945, making recovery claims easier.
- And, of course, this attention from the seizure of *Portrait of Wally* encouraged other claimants to bring such restitution claims.

All of these factors contributed to the families of Holocaust victims recovering literally hundreds of works of art stolen by the Nazis. And that work goes on.

I want to acknowledge the many U.S. Attorneys before me who oversaw this case, especially Mary Jo White, who initiated it and who, incidentally, is the one who hired me.

I would like to take a moment to thank Jim Hayes, Special Agent-in-Charge of the New York Office of the Department of Homeland Security's U.S. Immigration and Customs Enforcement, and Senior Special Agent Bonnie Goldblatt, who worked with my Office's Asset Forfeiture Unit on this case. Sharon Levin, the Chief of the unit, and AUSA Barbara Ward, worked 12 long years to reach today's result with the assistance of AUSA Anna Arreola and the rest of the Asset Forfeiture Unit.

I would also like to thank:

Jane Kallir and Hildegard Bachert of the Galerie Saint Etienne, who with Jane's late grandfather, Otto Kallir, were the custodians of the critical evidence in the case, Lea's letters.

Robert Morgenthau and the Manhattan DA's office for launching the opening salvo in this struggle – they issued the initial grand jury subpoena that stopped the export of *Wally*.

Police Commissioner Ray Kelly, who as the United States' head customs official, became personally involved in this case.

The Treasury Executive Office for Asset Forfeiture and Customs and Border Protection for their assistance in crafting the settlement.

And the attorneys for Lea's family, Howard Spiegler and Mari-Claudia Jimenez of Herrick Feinstein and Stacy Rosenberg an attorney formerly with the firm who litigated this case alongside the Asset Forfeiture Unit.

There are many art lovers here, I know. Art is precious. But even more precious than art is justice, and that is what we celebrate here today.